

## **TREASURY - GENERAL**

### **STATE INVESTMENT COUNCIL**

#### **International Government and Agency Obligations**

**Proposed Amendments: N.J.A.C. 17:16-20**

**Proposed New Rule: N.J.A.C. 17:16-20.2**

**Proposed Repeal: N.J.A.C. 17:16-20.3**

Authorized By: State Investment Council, William G. Clark, Director,  
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to calendar  
requirement.

Proposal Number: PRN 2006-87

Submit written comments by May 19, 2006 to:

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The agency proposal follows:

#### **Summary**

The proposed amendments to N.J.A.C. 17:16-20 are intended to expand the range of international government and agency obligations in which the Director may invest. The amendments delete references to an "Approved List of International Governments," while at the same time establishing certain risk parameters for investments by specified funds.

The Council is proposing to amend N.J.A.C. 17:16-20.1(a) and (b) to delete the references to "approved lists" and "approved governments." In proposed N.J.A.C. 17:16-20.1(b) and (c), the Council establishes parameters for investments by the Cash Management Fund and Common Pension Fund B, respectively, with the Cash

Management Fund investments limited to U.S. dollar-denominated obligations of the Canadian government or a province thereof with certain specified minimum credit ratings, and Common Pension Fund B investments limited to U.S. dollar-denominated obligations with certain specified minimum credit ratings. These parameters, which apply to the Cash Management Fund and Common Pension Fund B, replace the minimum credit ratings of N.J.A.C. 17:16-20.2(b), which currently apply to all investments under the subchapter. Consistent with other subchapters, proposed N.J.A.C. 17:16-20.1(d) was added to allow the Council to waive the restrictions contained in (a) through (c) on a case-by-case basis.

For consistency with analogous subchapters, the Council is proposing to add a new N.J.A.C. 17:16-20.2 enumerating which funds are eligible to invest under the subchapter. This language replaces the more general language in N.J.A.C. 17:16-20.1(a).

The Council is proposing to amend N.J.A.C. 17:16-20.2(a) (recodified as N.J.A.C. 17:16-20.3(a) 1) to clarify that the one percent limitation for any eligible fund's stake in any one investment includes indirect investments through Common Pension Funds B and D. The maximum exposure limitations of N.J.A.C. 17:16-20.2(c) (recodified as N.J.A.C. 17:16-20.3(a) 2) have been raised to allow for investments of up to the greater of \$10 million or 25 percent of any one issue (or any one issuer). The Council believes that the current limitations unnecessarily restrict the Division's flexibility in investing common fund assets in international government and agency obligations.

The Council is proposing to add N.J.A.C. 17:16-20.3(a) 3 to cross-reference the provisions of N.J.A.C. 17:16-44, 46 and 67, to conform with the aggregate international investment limitations in those subchapters.

The Council is proposing language in N.J.A.C. 17:16-20.3(a) and (b) to provide that the maximum participation limitations therein apply at the time of initial purchase and, if subsequent to initial purchase, the limitations are exceeded, the Division may be granted a grace period to reduce participation below such limitations. This would provide the Division with flexibility to manage the portfolio in the event that circumstances beyond its control cause the limitations to be exceeded.

The Council is repealing the paperwork requirements of N.J.A.C. 17:16-20.3 in order to streamline the investment process.

Because the Division is providing a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

There will be no social impact from the proposed amendments, new rule and repeal.

#### **Economic Impact**

There will be a positive impact from the proposed amendments, new rule and repeal on participants in the funds eligible to invest in international government and agency obligations, by allowing the Division more flexibility in investing fund assets.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the investment policy rules of the State Investment Council are not subject to any Federal requirements or standards.

#### **Jobs Impact**

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the proposed amendments, new rule and repeal.

#### **Agriculture Industry Impact**

The proposed amendments, new rule and repeal will have no impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required, since the proposed amendments, new rule and repeal impose no requirements on small businesses as the term is defined in

the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

### **Smart Growth Impact**

The proposed amendments, new rule and repeal are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### 17:16-20.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any [pension and annuity group] **eligible** fund [except the Consolidated Police and Firemen's Pension Fund and Common Pension Fund A,] in:

1. Direct obligations of [approved] sovereign governments;
2. Obligations of political subdivisions of [an approved] **a** sovereign government;
3. Obligations of agencies of [an approved] **a** sovereign government which are unconditionally guaranteed as to principal and interest by the sovereign government's full faith and credit; **and**
4. Obligations of international agencies which are directly backed by the collective credit of multiple **sovereign governments**. [countries; and
5. Obligations of agencies of the Canadian Government or Canadian Provinces which qualify under N.J.A.C. 17:16-16.]

(b) [The Director shall submit a list of international governments to the Council for its approval. Such list may be amended or enlarged from time to time by the Council and shall constitute the "Approved List of International Governments.] **Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the Cash Management Fund in direct obligations of the Canadian government or a province thereof that are:**

1. **Denominated in United States dollars; and**

2. Have a credit rating of Aa3 or higher by Moody's Investor Service, Inc., AA- or higher by Standard & Poor's Corporation, and AA- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available.

(c) Notwithstanding subsection above, the Director may only invest and reinvest the moneys of Common Pension Fund B in international government and agency obligations that are:

1. Denominated in United States dollars, and
2. Have a credit rating of Baa3 or higher by Moody's Investor Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available.

(d) Notwithstanding the restrictions contained in (a) through (c) above, the Council may approve the purchase of international government and agency obligations on a case-by-case basis.

#### 17:16-20.2 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey;
6. Common Pension Fund B;
7. Common Pension Fund D; and
8. Cash Management Fund.

#### 17:16-[20. 2] 20.3 Limitations

(a) At time of initial purchase, the following conditions shall be met:

**1.** Not more than one percent of the **market value of the** assets of any [pension and annuity group] **eligible fund, either directly or through Common Pension Funds B or D,** shall be invested in [any one issuer of] obligations [under this subchapter], whether direct or guaranteed, **of any one issuer.** The one percent limitation shall not apply to Common Pension Funds B and D.

[(b)] All obligations under this subchapter must be rated at least double-A by either Moody's Investors Service, Inc. or Standard & Poor's Corporation or have equivalent ratings. Subsequent to purchase, if ratings fall below double-A for such issues, they do not have to be sold.]

[(c)] **2.** The total amount of debt issues purchased or acquired of any one issuer shall not exceed [two] **25** percent of the outstanding debt of the issuer, and not more than [10] **the greater of \$US 10 million or 25** percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the [State Investment] Council.

**3. The market value of international government and agency obligations held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with common and preferred stock and issues convertible into common stock permitted under N.J.A.C. 17:16-44 and 46 and Canadian obligations permitted under N.J.A.C. 17:16-16, cannot exceed 22 percent of the market value of the assets of such fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67.**

**(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.**

#### [17:16-20.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained a public prospectus or circular describing the issue.

(b) In the case of an issue which is privately placed, the Director shall obtain, in addition to the requirements of (a) above:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.]